IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUIT NO. 1431 OF 1985

Oriental Bank of Commerce ....Plffs.
vs.
Ram Quarries and Ors. ....Defnds.

C.D. Patel with Ms. S. Singh i/b. Vyas and Bhalwal for the plffs.

None for the defendants.

CORAM: S.U. KAMDAR, J.

DATE : 26TH JULY, 2005.

P.C. :

1. The present suit is filed for the recovery of sum of Rs.2,69,793.00/- with interest thereon at the rate of 18% p.a. from the date of the suit till payment and or realisation. The suit arises on the following facts of the case.

2. Sometime in or about 4.9.1976 the first defendant firm was granted cash credit limit and in

consideration thereof the defendant executed the documents in favour of the plaintiff bank being a demand promissory note dated 4.9.76, letters of leave and lien both dated 4.9.76 and agreement of cash dated 4.9.76. In consideration of the execution of the aforesaid documents the plaintiff granted to the defendants the said facility. The plaintiff has disbursed the money from time to time. It is the case of the plaintiff that the money was repayable by various instalments. However the same was not paid. The said cash credit facility was renewed by once again executing similar documents on 10.10.1980. In view of the non-payment of the amount by the defendant the plaintiff issued a notice dated 20.10.1982 calling upon them to make the aforesaid payment. The defendants requested for statement of accounts. However nothing was done. In view thereof the plaintiff has filed the present suit at the foot of the account for sum of Rs.2,69,793.00/- with further interest at the rat of 18% p.a. on the principal amount of Rs.75,000/-.

3. Issues were also framed by this court. The

plaintiff has filed list of documents and affidavit of evidence dated 13.7.2005. The plaintiff has also filed affidavit of documents. The said compilation of documents are marked as Ex.P1 collectively. Some of the documents are the xerox copies and in affidavit of evidence the witness of the plaintiff has mentioned in para-13 of the affidavit he has mentioned that the said documents are not traceable. He has also mentioned that the documents are the correct photo-copies of the original documents, The evidence of the plaintiff has gone unchallenged. In vie of the fact that nobody is appearing on behalf of the defendants I had directed the plaintiffs to give notice to the said advocate Mr.S. Malik. Accordingly notice has been served dated 19.7.2005 and 25.7.2005. Inspite of the same none appears on behalf of the defendants. The matter was already on board on 7.62005, 5.7.2005, 11.7.2005 and 19.7.2005 and on none of the occasions anybody appeared for the defendants. In view thereof I pass the following order :

There shall be decree in favour of the plaintiffs and against the defendants for sum of RS.2,69,793.00/- alongwith simple interest at the rate of 18% p.a. on the principal amount of Rs.75,000/- from the date of the suit till payment and or realization. Suit disposed off accordingly. No order as to costs.

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